

APPEAL NO. 031301
JULY 8, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 29, 2003. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the first quarter. The claimant appeals on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to first quarter SIBs. Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) establish the requirements for entitlement to SIBs. At issue was whether the claimant had a total inability to work during the qualifying period from September 19, 2002, through December 18, 2002. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In view of the applicable law and the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant asserts that it was error for the hearing officer to consider a required medical examination doctor's report and functional capacity evaluation, conducted on December 12, 2002, but received after the first quarter qualifying period, which indicated that the claimant had some ability to work. The Appeals Panel has said that medical evidence from the qualifying period is clearly relevant but other medical evidence from outside the period, especially that which is relatively close to the qualifying period, may be relevant to the condition of the claimant during that period and may be considered. See Texas Workers' Compensation Commission Appeal No. 960880, decided June 18, 1996. Accordingly, we perceive no error.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRANSCONTINENTAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge